IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5382 OF 2004
IN
CRIMINAL APPEAL NO.1100 OF 2004

Mohammad Abdulla @ Bablu Mustafa Ansari Applicant

vs.

State of Maharashtra Respondent

Mr.Ganesh Gole for Mr. Indrajit Joshi for the applicant.

Ms. V.R. Bhonsale, APP for the State.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 3rd February 2005

P.C.

Heard Mr.Ganesh Gole, the learned counsel for the accused-applicant.

2. It is true that there are no eye-witnesses in the present case. The prosecution sought to bring home the guilt of the accused on the basis of the circumstantial evidence.

3. The circumstances relied upon by the prosecution as noticed by the learned trial Judge are thus:

(i) Accused and the deceased were residing at the same place i.e. the room situated at Ali Bahaddur chawl and on this point, prosecution relied on the testimony of PWs 2, 3, 4, 5 and 6.

(ii) There was quarrel between accused and the deceased on the point of residence.

(iii) Accused and the deceased were missing since 13.1.2002.

(iv) P.W. 4 saw the deceased lastly at 9.00 p.m. on 12.1.2002.

(v) There were two injuries on person of the accused which were old bite marks and the history has been given by the accused to the said medical officer.

(vi) Art. 13 sura was produced by the accused alongwith other articles.

(vii) The place where the head was thrown was pointed out by the accused.

(viii) Human blood in the nail clippings of the deceased was found.

(ix) As per the testimony of PW 3 there was a quarrel between the accused and the deceased and hence, there was a motive for the alleged murder.

(x) The room of the deceased was locked and the accused was absconding since 13.1.2002 to 30.1.2002.

(xi) The pants belonging to the deceased were found alongwith Art. 13 with was produced by the accused.

(xii) Head was pointed out by the accused which was in the polythene bag.

(xiii) Headless body of the deceased was found in the plywood box.

(xiv) Accused was absconding and he was brought from Bihar State and thereafter arrested.

(xv) The incident of murder took place at the

residence of the accused and the deceased.

(xvi) Headless body of the deceased was found near and opposite side of Ali Bahaddur chawl."

4. The learned counsel for the accused urged that PW 2, PW 3, PW 4, PW 5 and PW 6 cannot be said to have identified the deceased. The learned counsel also contended that though there could have been independent witnesses available, the prosecution failed to examine them. He also contended that there was no evidence of last seen. Thus, the learned counsel submitted that there was no legal evidence connecting the accused with the crime of murder.

5. We are not pursuaded by the submission of the learned counsel.

6. The circumstantial evidence relied upon by the prosecution sufficiently brings home the guilt of the accused for the murder of Ravi @ Girdhari Bharat Bhagat Sah. The elaborate scanning of the evidence at the time of final hearing apart, this is what we find on prima facie consideration of the matter. We may notice that the deceased and the accused were staying in the same room and they were partners in the joint business. The prosecution seems to have established motive. All in all, it cannot be said that there is no legal evidence against the accused.

7. Criminal application for bail is, accordingly, rejected.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)